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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,412	11/20/2003	Kazunori Mototsu	0397-0471P	5551

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER	
NGUYEN, SANG H	

ART UNIT	PAPER NUMBER
2877	

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/716,412	MOTOTSU, KAZUNORI	
	Examiner	Art Unit	
	Sang Nguyen	2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 July 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

4a) Of the above claim(s) *31-46* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *11/20/03*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I (claims 1-30) in the reply filed on 07/10/06 is acknowledged.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

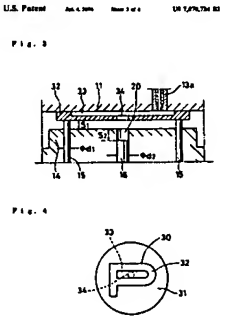
> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 15-23, 25, and 27 are rejected under 35 U.S.C. 102(a) as being anticipated by Nakazawa (U.S. Patent No. 7,070,724).

Regarding claims 15; Nakazawa discloses a partition member comprising:

a base (i.e., a primary mold [30 of figure 3]) having a through-hole (34 of figure 3) through which a sample is allowed to pas (figure 1); and

a projecting portion (i.e., a surrounding area [32 of figure 3]) which projects from the base (30 of figure 3) around the through-hole (34 of figure 3).



Regarding claims 16; Nakazawa discloses the projecting portion (32 of figure 5A-5B) has a ring shape (figure 4).

Regarding claim 17; Nakazawa discloses the projecting portion (32 of figure 4) is located on a circle coaxial (31 of figure 4) with the through-hole (34 of figure 4).

Regarding claim 18; Nakazawa discloses the projecting portion (32 of figure 3) projects axially of the through-hole (34 of figure 3).

Regarding claim 19; Nakazawa discloses the base (30 of figure 3) has a disk shape.

Regarding claim 20; Nakazawa discloses the through-hole (34 of figure 3) is provided at a center of the base (figure 3).

Regarding claim 21; Nakazawa discloses the base (30 of figure 3) has a recess (33 of figure 3), and the through-hole (34 of figure 3) is provided in the recess (33 of figure 3).

Regarding claim 22; Nakazawa discloses the base comprises a front surface (figure 3) and a rear surface (figure 3), and the projecting portion (32 of figure 3) and the recess (33 of figure 3) are provided on the front surface (figure 3).

Regarding claims 23 and 27; Nakazawa discloses the base (30 of figure 3) comprises a front surface and a rear surface (figure 3), and the projecting portion (32 of figure 3) is provided on the front surface (figure 3), and further comprising a damage prevention member (i.e., a secondary mold (31 of figure 5C) provided on the rear surface of the base (30 of figure 5C) for preventing the base from being damaged,

wherein the damage prevention member (31 of figure 5C) has a ring shape, and projects from the base (30 of figure 5C).

Regarding claim 25; Nakazawa discloses the base (30 of figure 3), the projecting portion (32 of figure 2) and the damage prevention member (31 of figure 5B) are integral with each other and composed of a resin (col.1 lines 8-15).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakazawa (U.S. Patent No. 7,070,724) in view of Ebara (U.S. Patent No. 5,246,434).

Regarding claim 24; Nakazawa discloses all of figure of claimed invention except for the base and the projecting portion are integral with each other and composed of a resin. However, Ebara teaches that it is known in the art to provide the base (tubular member [10 of figure 4) and the projecting portion (35 of figure 4) are integral with each other and composed of a resin (col.4 lines 40-45). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine partition member device of Nakazawa with the base and the projecting portion are integral with each other and composed of a resin as taught by Ebara for the purpose of improving the transparency of material.

Claims 26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakazawa (U.S. Patent No. 7,070,724) in view of Ikeda et al (U.S. Patent No. 5,190,269).

Regarding claims 26 and 28; Nakazawa discloses the projecting portion (32 of figure 1) and the damage prevention member (31 of figure 5B) has a ring shape. Nakazawa discloses all of figure of claimed invention except for a tapered interior wall which has an inner diameter progressively decreasing toward a proximal edge thereof away from a distal edge thereof. However, Ikeda et al teaches that it is known in the art to provide a tapered interior wall (figure 1) of the projection (12a, 12b of figure 1) or

damage prevention member which has an inner diameter progressively decreasing toward a proximal edge thereof away from a distal edge thereof (col.5 lines 1-16). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine partition member device of Nakazawa with a tapered interior wall which has an inner diameter progressively decreasing toward a proximal edge thereof away from a distal edge thereof as taught by Ikeda et al for the purpose of improving to conform to the rubber elastic member.

Claims 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakazawa (U.S. Patent No. 7,070,724) in view of Asakura (J.P. Patent No. 9304265).

Regarding claims 29-30; Nakazawa discloses all of figure of claimed invention except for the detector comprises a measuring unit to be removably connected to a sample analyzer, wherein the sample is a blood sample. However, Asakura teaches that it is known in the art to provide the detector comprises a measuring unit to be removably connected to a sample analyzer, wherein the sample is a blood sample (abstract and figures 4 and 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine partition member device of Nakazawa with the detector comprises a measuring unit to be removably connected to a sample analyzer, wherein the sample is a blood sample as taught by Asakura for the purpose of measuring accurately the sample.

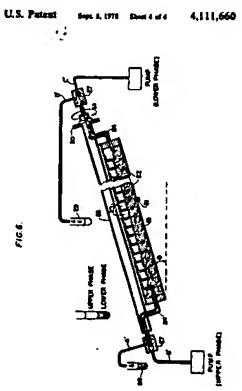
Claims 1-11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kabasawa et al (U.S. Patent No. 4,111,660) in view of Nakazawa (U.S. Patent No. 7,070,724).

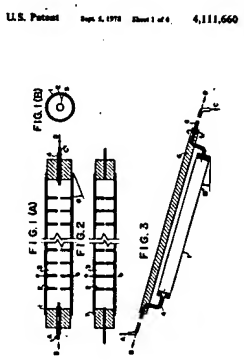
Regarding claim 1; Kabasawa et al discloses a measuring unit compring:

a first member (figure 6 as indicate pump (lower phase)) having a first channel (C' of figure 6) through which a sample is allowed to pass;

a second member (figure 6 as indicate pum [upper phase]) having a second channel (B' of figure 6) through which the sample is allowed to pass; and

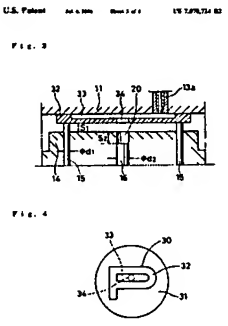
a partition member (22 of figure 6) having a through-hole (5 of figure 1B) through which the sample is allowed to pass from the first channel (figure 6 as indicate pump [lower phase])to the second channel (figure 6 as indicate pump [upper phase]). See figures 1-6.





Kabasawa discloses all of figure of claimed invention except for the partition member comprises a base having the through-hole and a projection portion which projects from the base around the trough-hole. However, Nakazawa teaches that it is

known in the art to provide a partition member comprising a base (i.e., a primary mold [30 of figure 3]) having a through-hole (34 of figure 3) through which a sample is allowed to pas (figure 1); and a projecting portion (i.e., a surrounding area [32 of figure 3]) which projects from the base (30 of figure 3) around the through-hole (34 of figure 3). See figures 1-5.



Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine measuring unit of Kabasawa et al with the partition member comprises a base having the through-hole and a projection portion which projects from the base around the trough-hole as taught by Nakazawa for the purpose of compositing an injection molded primaru molding and an injection molded secondary molding of different material resin.

Regarding claims 2-3; Kabasawa discloses all of figure of claimed invention except for the projection is fitted in a space surrounded by the projecting portion around the through-hole, wherein one of the first and second members has a first recess for receiving the partition member. However, Nakazawa teaches that it is known in the art to provide the projection is fitted in a space surrounded by the projecting portion (32 of figure 5C) around the through-hole (34 of figure 5C), wherein one of the first and second

members (30, 31 of figure 5C) has a first recess (33 of figure 5C) for receiving the partition member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine measuring unit of Kabasawa et al with the projection is fitted in a space surrounded by the projecting portion around the through-hole, wherein one of the first and second members has a first recess for receiving the partition member as taught by Nakazawa for the purpose of compositing an injection molded primary molding and an injection molded secondary molding of different material resin.

Regarding claims 4-8 and 13; Kabasawa discloses all of figure of claimed invention except for the projecting portion has a ring shape or is located on a circle coaxial with the through-hole, wherein projects axially of the through-hole, the base has a disk shape, wherein the base has a recess, and through-hole is provide at a center of the base. However, Nakazawa teaches that it is known in the art to provide the projecting portion (32 of figure 5A-5B) has a ring shape (figure 4) and the projecting portion (32 of figure 4) is located on a circle coaxial (31 of figure 4) with the through-hole (34 of figure 4), wherein the projecting portion (32 of figure 3) projects axially of the through-hole (34 of figure 3), wherein the base (30 of figure 3) has a disk shape and the through-hole (34 of figure 3) is provided at a center of the base (figure 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine measuring unit of Kabasawa et al with the projecting portion has a ring shape or is located on a circle coaxial with the through-hole, wherein projects axially of the through-hole, wherein the base has a recess, and through-hole is provide at a

center of the base as taught by Nakazawa for the purpose of compositing an injection molded primary molding and an injection molded secondary molding of different material resin.

Regarding claims 9-10; Kabasawa discloses all of figure of claimed invention except for the base has a recess, and the through-hole is provided in the recess, wherein the base comprises a front surface and a rear surface, and the projecting portionand the recess are provided on the front surface. However, Nakazawa teaches that it is known in the art to provide the base (30 of figure 3) has a recess (33 of figure 3), and the through-hole (34 of figure 3) is provided in the recess (33 of figure 3), wherein the base comprises a front surface (figure 3) and a rear surface (figure 3), and the projecting portion (32 of figure 3) and the recess (33 of figure 3) are provided on the front surface (figure 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine measuring unit of Kabasawa et al with the base has a recess, and the through-hole is provided in the recess, wherein the base comprises a front surface and a rear surface, and the projecting portionand the recess are provided on the front surfaceas taught by Nakazawa for the purpose of compositing an injection molded primary molding and an injection molded secondary molding of different material resin.

Regarding claim 11; Nakazawa discloses the base (30 of figure 3) comprises a front surface and a rear surface (figure 3), and the projecting portion (32 of figure 3) is provided on the front surface (figure 3), and further comprising a damage prevention member (i.e., a secondary mold (31 of figure 5C) provided on the rear surface of the

base (30 of figure 5C) for preventing the base from being damaged, wherein the damage prevention member (31 of figure 5C) has a ring shape, and projects from the base (30 of figure 5C). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine measuring unit of Kabasawa et al with the base comprises a front surface and a rear surface, and the projecting portion is provided on the front surface, and further comprising a damage prevention member provided on the rear surface of the base for preventing the base from being damaged, wherein the damage prevention member has a ring shape, and projects from the base as taught by Nakazawa for the purpose of compositing an injection molded primary molding and an injection molded secondary molding of different material resin.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kabasawa et al and Nakazawa as applied to claim 1 above, and further in view of Ebara (U.S. Patent No. 5,246,434).

Regarding claim 12; Nakazawa and Kabasawa et al discloses all of figure of claimed invention except for the base and the projecting portion are integral with each other and composed of a resin. However, Ebara teaches that it is known in the art to provide the base (tubular member [10 of figure 4) and the projecting portion (35 of figure 4) are integral with each other and composed of a resin (col.4 lines 40-45). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine partition member device of Nakazawa with the base and the projecting portion are integral with each other and composed of a resin as taught by Ebara for the purpose of improving the transparency of material.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kabasawa et al and Nakazawa as applied to claim 1 above, and further in view of Spinell (U.S. Patent No. 5,351118).

Regarding claim 14; Nakazawa and Kabasawa et al discloses all of figure of claimed invention except for the first and second electrodes provided in the first and second channels. However, Spinell teaches that it is known in the art to provide the first and second electrodes (5, 6 of figure2) provided in the first and second channels (figures 1 and 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine partition member device of Nakazawa with the first and second electrodes provided in the first and second channels as taught by Spinell for the purpose of improving measured the sample with high speed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bhullar et al (6406672) discloses plasma retention structure providing internal flow; Orimoto et al (5445515) discloses apparatus for forming a heat-resistant container; or Hirose (4063086) discloses scale reading apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sang Nguyen whose telephone number is (571) 272-2425. The examiner can normally be reached on 9:30 am to 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2800 ext. 77. The fax

phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

September 15, 2006

Sang H. Nguyen
Patent Examiner
Art Unit 2877